

## **AGRICULTURAL, AQUACULTURAL, HORTICULTURAL WATER USE**

### **GENERAL INFORMATION**

If a single diversion source or a combination of diversion sources used for agricultural, aquacultural or horticultural purposes have a pumping capacity of 70 gallons per minute (for a single source or any combination of sources) then either an agricultural water usage certification (total water use 3.1 million gallons or greater per month, use form AGC-001) or agricultural registration (total water use less than 3.1 million gallons per month, use form AGC-002) must be obtained.

Any body of water from which water is or could be used should be included as a diversion source in the application. This would include sources for which fixed and/or portable pumping equipment would be used, as well as sources from which water would be removed by allowing it to flow in ditches, flumes or pipes.

The number of certifications or registrations required is dependent upon a number of factors related to the property location relative to municipal boundaries and other owned/operated properties. One Registration or Certification should be applied for if the properties are under common ownership and (1) the properties are next to one another (contiguous), or (2) are located in the same municipality, or (3) lie within an area of a square two miles on a side. The only exception is if separate documents are required for tax purposes.

Public notice is required by law for any new certification or for the major modification of a certification. The public notice must identify the location of the diversion activity, the source(s) from which water is to be diverted, the amounts of water involved, and the use of the water. The sample notice form dated (2/99) must be used to provide public notice in a newspaper circulating in the area of the diversion. Public notice is not required for an agricultural registration.

Any questions should be directed to your county agricultural agent or the Bureau of Water Allocation's agricultural program coordinator (609) 292-2957.

## CERTIFICATION GUIDELINES

The AGC-001 Form (revised March, 2003) must now be used for all agricultural, aquacultural or horticultural certification applications. Instructions are provided with the application form and all information must be provided as requested.

Section D of the application form requests the type of application that is being made. It is important to correctly identify the type of application that is being made so that the appropriate guidance can be provided. A summary of each of the six types of application follows:

Existing Diversion, not previously Certified – to be used for certifying either an existing operation that has up to this point not required water in sufficient quantities that a certification was required (ie. former registration); or for someone who has been diverting over 3.1 million gallons of water per month but has not yet obtained their certification.

New diversion, not previously Certified – to be used for certifying a new farming operation; or an operation that is only now beginning to require the use of water.

Major Modification of Existing Certification – to be used when a certification holder wishes to relocate a well or intake; add a new diversion source; increase pumping capacity and/or monthly and/or annual allocations; or change a certification condition. (See major modification sheet for specifics)

Major Modification and Renewal of Existing Certification – to be used when any of the conditions identified immediately above coincides with the time a certification is due to be renewed.

Renewal of Certification – to be used for renewing a certification without change.

Minor Modification and Renewal of Certification – to be used for renewing a certification with only minor changes such as: change of address or name; transfer of ownership or operation; replacement well; request a reduction in allocation. (See minor modification sheet for specifics)

**Please note that any of the first four types of application require public notice which must identify the source(s) of the water, including stream name and/or depth of well, the location of the diversion source(s), and the pumping capacity, monthly and annual allocations which are being requested. The Sample PUBLIC NOTICE attached, revised date of 3/03 in upper left hand corner, must be used. These sample forms are also available from the RCE County Extension Office.**

## **Section A – Location and Property Information**

Section A is to identify the diversion location, the land owners, the applicant, and the certification contact person or people. Many farms operate as a corporation or partnership. The name of the corporation, farm or partnership may be listed as the applicant. *Instructions for A.1-5 are provided with the application form.*

Section A.6 is to identify if the applicant's diversion sources are located within the Delaware River Basin. This federal agency requires any water user in the Delaware River Basin to obtain a 'docket' approval from the Delaware River Basin Commission (DRBC), which is a separate matter from the certification. Farmers must have both a certification and a docket if they divert water in the basin. New Jersey is a member of the DRBC and works with the DRBC to insure that the water resources of the basin are managed in the public interest. Table 1 is a listing of major streams and rivers that drain to the Delaware River. If runoff from your farm eventually drains into the one of these streams or rivers you need to contact the DRBC about the necessity of obtaining a docket. DRBC can be contacted at (609)-883-9500.

## **Section B - Certifications**

Item B.1 – Applicant's Certification, the applicant's signature advises the county agricultural agent and the Department that the applicant has seriously considered the provisions of the law and has provided true and accurate information to the best of their knowledge.

Item B.2 – Agent's Certification, the agent's signature advises the applicant and the Department that the quantity of water identified under A.2.(b) is reasonably required to meet the applicant's water needs.

Item B.3 – Applicant's Agent or Representative Certification, this is to be used only in instances where the applicant/owner or applicant/operate is going to designate someone else to handle the matters relating to the application on their behalf.

## **Section C – Required Submittals/Application Attachments**

Section C.1 requires that a copy of the log or other appropriate record of daily and/or monthly hours of operation and/or quantity of water diverted from each source for the last month of operation (of the irrigation system) prior to application be provided with the application. A photocopy of the log or printout of the computer log must be included.

Section C.2 requires the submittal of the Agricultural Agent Calculations to verify the quantity of water needed as part of the Certification Section.

## **Section D – Diversion Request and Diversion Source Information**

Section D.1 and D.2 is to identify existing water use and the allocation requested from all diversion sources. Existing water use would be based upon the existing certification or registration. The requested allocation is to be calculated with the help of the county agent. This must be based upon expected demands not upon available pump capacity.

Section D.3 is to identify in general terms, what the diversion is to be used for, i.e. agriculture, livestock, aquaculture, horticulture, or containerized plants.

Section D. 4 is to identify the applicant's various diversion sources that could be used to provide water. This is required in order to determine the source of the water being diverted, potential impacts of the diversion, and in the capability of the sources to provide the quantities of water requested. The Well Local Name or Intake Local Name would be the applicant's labeling system to identify the various diversion sources. Note that the drainage area can be obtained by contacting the United State Geological Survey at (609) 771-3900 with the latitude and longitude of the intake or a known landmark that would be on the USGS quad sheet, such as a bridge. Item d., Retention Ponds, refers to ponds that were installed to contain and/or recycle on-site runoff. In Section D.5, it is important to identify if any ponds are supplemented by use of a well(s) or a stream so that water is not double counted.

## **Section E – Mapping Requirements**

Section E requires the submission of a map with the location of the applicant's diversion source(s) identified. (Base maps available at RCE County Extension Office) Accurately locating the diversion sources is important in that it is a first step in preventing possible encroachment by other users. It allows the Department to fully consider the impact to your diversion sources from any future diversion request.

## **Section F – Irrigation Information**

Section F.1 is to identify the irrigation system (equipment and piping) and water use practices. This space allows the irrigation system(s) to be described in sufficient detail so that the farmer and the county agent can determine the hourly capacity of the system(s).

Section F.2 is to identify the method(s) that are used by the certification holder to track and tabulate their water use from the individual sources on a monthly basis. (i.e. daily start and stop times written in log book and/or entered into computer data base, hour meter readings taken at beginning and end of the month, monthly dedicated electrical meter readings, or flow meter readings taken at the beginning and end of the month)

Section F.3 identifies the acreage involved and the soil characteristics, which have a bearing on the proposed and potential water demands for the application. The water requirements of a farm are based upon acreage, predominate soil type/texture and the crops grown. It should be noted that the soil type/texture should be based upon the USDA Soil Survey (County version), available in each county soil conservation district office. The information is needed to provide the county agent with sufficient information to calculate a farm's water requirements, and helps the Department in determining water availability.

## **Section G - Operational Considerations**

Section G identifies the requirements of the Water Supply Management Act, which must be considered in order to obtain a diversion privileges. This section must be completed by the applicant. The questions should be answered based upon the expected operation of the applicant's diversion sources under normal operating conditions.

1. Pursuant to N.J.A.C. 7:20A-1.2(c), diversions used for agricultural, aquacultural, or horticultural purposes are considered to be in the public interest. However, the activity must be done in such a manner as to not constitute a risk to the public health or safety. A risk would be considered drying up nearby wells, streams or ponds, or improper construction of any diversion related structures or facilities.
2. It is important to know if the applicant's water use will have any impact on the water use of other individuals. New Jersey water law is based upon those who are using the water first not having their ability to obtain water impaired by a new diversion. While a new diversion may lower an existing water level, as long as it does not preclude another user from obtaining their required amounts of water it is not considered undue interference.
3. Natural replenishment refers to amounts of water that annually makes its way into the wells, streams and ponds. Water levels fluctuate naturally, and also decline in response to the pumping of diversion sources. It is not uncommon to see water levels decline during the dry months of the irrigation season. However, these water levels should recover and return to normal levels before the next growing season. If they do not, water levels and diversions must be looked at to determine if a problem is developing.
4. Heavy pumping of wells can lower the natural ground water levels to an extent that the areas from which they are drawing in water includes:
  - a. areas which contain sources of saline water such as the ocean, bays and saline portions of rivers and streams; or
  - b. potential sources of pollution such as leaky underground storage tanks, landfills, and dumps; or
  - c. areas where know pollution is being cleaned up.

It is important that an existing or proposed diversion does not create a water level reduction of such magnitude that it intersects either a saline water source or sources of pollution, or interferes with an on going pollution cleanup. In any of these instances this could result in the eventual loss of the aquifer as a source of water.

5. Excessive pumping of diversion sources during dry periods can cause a reduction of flow in a stream or river. Reduction of the flow to a point that causes a fish kill, unsanitary conditions downstream, or caused the stream to dry up could be considered an injury to public or private interests and should be avoided.

## MAJOR MODIFICATIONS – Types and Requirements

1. Relocation of an intake or well –

For a change of diversion sources location greater than 100 feet from an existing certified diversion source.

If the relocated source is within 100 feet of the old intake or well and draws water from the same source (aquifer or stream) at the same or less pumping capacity it is considered a replacement (minor mod #3). Otherwise, it is considered a new diversion source, see #2 below.

2. Addition of a new diversion source –

For a new diversion source not meeting the criteria of either a replacement well (minor mod #3) or of a new source to reduce irrigation time (minor mod #4), whether or not an increase in allocation is sought.

Certification holder to provide county agent a complete application package including mapping to show the location of the new source(s), with specific information on the new source(s) pumping capacity, related irrigation practice/equipment, acreage and crop type information, diversion source information, and operational considerations. (County agent to forward copy of application to BWA prior to public notice)

3. Increase in pumping capacity, and/or monthly and/or annual allocation –

For an increase in the pumping capacity of a certified diversion source, and/or an increase in monthly and/or annual allocation(s).

Certification holder to provide county agent a complete application package which identifies the reason for the increase, use of the diversion, and the related irrigation practice/equipment, acreage and crop type, affected diversion source(s), and operational considerations. (County agent to forward copy of application to BWA prior to public notice)

4. Certification condition change –

For changing or eliminating an existing condition within a certification.

Certification holder to provide county agent with a description of the change requested and the necessity for the change. This should identify any changes which are expected to occur as a result of the request, including the affects upon: diversion use, irrigation practice/equipment, acreage irrigated and crop type, diversion sources, and operational considerations. County agent to discuss request with BWA.

If after consultation with the county agent it is determined by the Department that the requested change has the potential to cause an adverse impact, a modification application must be submitted to the agent by the certification holder. (County agent to forward copy of application to BWA prior to public notice)

**Please note that all major modifications require the publication of a Notice of Application in a newspaper circulating in the general area of the diversion activity. See the attached sample. The notice must accurately describe the proposed diversion activity including the proposed depth of a well, the pumping capacity involved, the allocation requested, and the location of the diversion source(s).**

## **MINOR MODIFICATIONS – Types and Requirements**

1. Change in name and mailing address –

For a name change or change in address, or change in phone number only.

A written notice from the certification holder to the county agent and Bureau of Water Allocation of the change, identifying the Certification Number, the name and/or address and/or phone number to be changed including the effective date of the change.

2. Transfer of ownership or operation –

For a transfer of ownership or operation for a property which has a certification, only under the specified conditions of water usage or property utilization for the existing certification.

- a. Written notice from the existing certification holder to new certification holder and the county agent that the new certification holder must notify the county agent of the transfer identifying the certification number.
- b. Within 180 days the new owner or operate must notify the county agent of the change identifying both the old and new owner or operate, the affected certification number, the address and phone number of the new owner or operator and the effective date of the change. (County agent to notify BWA in writing. BWA will provide a copy of the certification to new owner or operator).

3. Replacement well –

For installation of a replacement well (same aquifer, approximate same depth, same or lesser pumping capacity and within 100 feet of existing well which must be sealed).

Prior to installation of replacement well certification holder to provide county agent with locations, pump capacities, and well permit numbers and local name or number for the existing well and the replacement well. Certification holder also to provide well permit number for well to be sealed to person sealing the well. (County agent to forward information to BWA)

4. New source to reduce irrigation time – (cannot be used for on stream diversion)

When a new source is added solely to reduce the irrigation time. (New source must be in same aquifer and at approximate same depth as, at same or lower pump capacity, and within 100 feet of existing certified well, not required an increase in monthly or annual allocation, and be more than 500 feet from a property line).

Certification holder to provide county agent with a copy of the well record from the new well and a sketch showing the location of the new well relative to the existing well with the distance between the two identified and the distance from the nearest property line specified. (County agent to verify and forward information to BWA).

5. Request a reduction in allocation –

When a reduction in certified amount of water which can be diverted is sought.

Certification holder to submit to the county agent a written request for the reduction along with the reason it is being sought. (County agent to verify and forward to BWA, which will issue a revised certification)

TABLE 1

## MAJOR SUB-BASINS OF THE DELAWARE RIVER

Alexsocken Creek	Mantua Creek	
Alloways Creek	Maple Swamp Creek	
Assiscunk Creek	Maurice River	
Assunpink Creek		Manintico Creek
Baldwin Run Creek		Manumuskin Creek
Big Timber Creek	Miles Creek	
Black's Creek	Mill Creek	
Cohansey River	Musconetcong River	
Cooper Creek	Newton Creek	
Crafts Creek	Nichisakawick Creek	
Crosswicks Creek	Old Mans' Creek	
Delawanis Creek	Paulins Kill River	
Dennis Creek	Pennsauken Creek	
Fishing Creek	Pequest River	
Goshen Creek	Pohatcong River	
West Creek	Pompeston Creek	
Dividing Creek	Racoon Creek	
Back Creek	Rancocas Creek	
Nantuxent Creek	Rapaupo Creek	
Duck Creek	Salem River	
Flat Brook	Shimmers Brook	
Harihokake Creek	Stow Creek	
Lokatong Creek	Vancampens Creek	
Hakihohake Creek	Whopping Creek	
Jacobs Creek	Wickecheoke Creek	
Lapatcong Creek	Woodbury Creek	

AGRICULTURAL DIVERSION  
PUBLIC NOTICE

Pursuant to the provisions of the Water Supply Management Act, N.J.S.A. 58:1A et seq.,

\_\_\_\_\_, \_\_\_\_\_  
(Applicant Name) (Mailing Address)  
filed an application, number \_\_\_\_\_, with the Rutgers Cooperative Extension and the Department of Environmental Protection, Bureau of Water Allocation, for approval of plans to divert \_\_\_\_\_ million gallons of water per month at a maximum rate of \_\_\_\_\_ gallons per minute from (\_\_\_\_\_ existing) (and) (\_\_\_\_\_ proposed) wells, \_\_\_\_\_ to \_\_\_\_\_ feet deep; \_\_\_\_\_ ponds; and \_\_\_\_\_ (stream)(river). (This request represents an increase of \_\_\_\_\_ million gallons of water per month above the previously approved allocation of \_\_\_\_\_ million gallons per month). The well(s), pond(s), intake are located in the (Township) (Borough) (City) of \_\_\_\_\_, \_\_\_\_\_ County at the \_\_\_\_\_ farm off of \_\_\_\_\_ Road. The diversion is to be used for \_\_\_\_\_. The application is available for public review, by appointment only, at the Offices of the Rutgers Cooperative Extension, \_\_\_\_\_, and at the Bureau of Water Allocation, 401 East State Street, Trenton (609) 292-2957.

Written comments and/or requests for a public hearing on the application must be received by the Department no later than \_\_\_\_\_, and submitted to:  
(insert date not less than 30 days after publication)

Agricultural Program Coordinator  
Bureau of Water Allocation  
P.O. Box 426  
Trenton, New Jersey 08625-0426

If a timely request is received during this period, and the issues raised cannot be resolved, or if it is determined by the Department that a hearing would be in the public interest, public notice will be given in order to schedule a public hearing pursuant to N.J.A.C. 7:20A-2.5(k).

If no hearing is held, the decision-maker shall make a final determination whether or not to issue the certification and the conditions to be contained therein.